IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1460 OF 2006

Budhaji Waman Vishe ....Applicant.

V/s

State of Maharashtra ...Respondent.

Mr. N.N. Gavankar with Mr. Arfan Saith for the applicant.

Ms. Rajeshree M. Gadhvi, APP for the State

CORAM: V.M. KANADE, J.

DATE: 17th April, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with C.R. No. No.I-111 of 2005 registered with Murbad Police Station for the offence punishable under section 302, 324, 336 read with section 34 of the Indian Penal Code.

3. It is alleged that there was a dispute between the complainant and the present applicant in respect of the agricultural lands of the present applicant and the complainant, which were adjacent to each other.

On the date of the incident, it is alleged that the present applicant, his father and his sister assaulted the deceased. The prosecution has alleged that the present applicant gave two blows on the face of the deceased with an iron rod and his sister assaulted the deceased with stone on his head. In the post-mortem report, the doctor has stated that the cause of death was due to injury which was caused to the head.

4. The charge-sheet has been filed. The father of the applicant has been released on bail by this Court by order dated 10/4/2006. Looking at the nature of the offence and the injuries which were caused to the accused, in my view, the applicant deserves to be released on bail as, according to the prosecution, he had assaulted the deceased on his face. At this stage, it cannot be said that he shared the intention of his sister Baby who had assaulted the deceased on his head.

5. The applicant be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. The applicant shall report to the concerned Police Station once in a month. The applicant shall not tamper with the evidence or threaten any of the witnesses.

6. It is made clear that the trial court shall not be influenced by any observation made by this Court in this Order and the same should not be construed to mean as an expression of opinion on the merits of the case and decide the case on its own merits and in accordance with law.

7. Application is accordingly disposed of.

V.M. KANADE, J.